

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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XU-SHEN ZHOU, a/k/a JASON ZHOU,

Plaintiff,

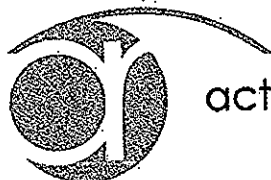
-VS-

STATE UNIVERSITY OF NEW YORK INSTITUTE
OF TECHNOLOGY, DRS. LISA BERNARDINO,
STEPHEN HAVLOVIC, WILLIAM LANGDON AND
PETER SPINA, personally and in their
official capacities,

Defendants.

* * * * *

Examination Before Trial of
STEPHEN J. HAVLOVIC, Ph.D., held at
State University of New York
Institute of Technology, Utica,
New York, on May 11, 2010 before
NORA B. LAMICA, Court Reporter and
Notary Public in and for the State of
New York



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IT IS HEREBY STIPULATED by and between
counsel for the respective parties that this
Deposition is to be held pursuant to the
provisions of the Civil Practice Law and
Rules; that the presence of a Referee is
waived; that the signing of the minutes is NOT
waived; the filing of the transcript is
waived; that the witness may be sworn by
NORA B. LAMICA, Notary Public in and for the
State of New York; and that all objections,
except those as to form, are reserved until
the time of the trial.

* * *

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2 idea what you're asking.

3 A. I received verbal comments, and I had received
4 written comments, and I was concerned about quantitative
5 evaluations. I had concerns about your teaching.

6 Q. Now, when was the time, the first time, you
7 decided to give me reassignment, to remove me from
8 teaching?

9 MR. GOGLIA: Objection. Vague and
10 ambiguous. Are you talking about --

11 Q. Have you had any thoughts to remove me from
12 teaching to give me reassignment?

13 A. That was in your final semester.

14 Q. So there's no time before that final semester
15 that you had any thoughts to remove me from teaching; is
16 that correct?

17 MR. GOGLIA: Objection. Assumes facts in
18 dispute in this action, and you're
19 mischaracterizing the witness's prior
20 testimony. He didn't say that. He talked
21 about --

22 MR. ZHOU: That's what I'm asking for, to
23 be clear. Okay? That's why I'm asking
24 question again.

25 MR. GOGLIA: Let's see what your -- what

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is your question, then, because your question was insinuating --

MR. ZHOU: Stop this. Don't waste the time.

MR. GOGLIA: -- nothing happened until the final semester, that that thought never crossed his mind until the final semester. And frankly, I don't know if that's true or not.

MR. ZHOU: You give the speaking objection, okay, multiple times now. Give me the answer.

A. Can you repeat the question, because I'm not sure what the question is, at this point?

Q. You never had any thoughts to remove me from teaching until the last semester; is that correct?

A. I never considered removing you as an instructor from the classroom during a semester, until your final semester here at SUNY-IT.

Q. Okay. So the only thoughts you had to give me reassignment occurred in the last semester?

A. Correct.

Q. What do you think the factors that contribute to my decision to file this lawsuit?

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2 Q. Exactly. You looked at not three semesters,
3 just two semesters evaluation forms?

4 A. She was in her third semester, I believe.

5 Q. Third semester, but didn't get third semester
6 evaluation yet?

7 A. I didn't have evaluations yet, Dr. Zhou, but
8 people come and complained. I had three semesters. I
9 was in the third semester.

10 Q. Okay.

11 A. Please don't put words in my mouth.

12 Q. No, I'm talking about this IDEA form.

13 A. You might think that, but unless you
14 specifically tell me that and you pulled up the record,
15 that was in her third semester.

16 Q. Okay. Now, when you look at this, Exhibit 7,
17 in your evaluation, did you consider her years of
18 teaching experience?

19 A. I was concerned about her teaching here.

20 Q. So you never considered about how many years?

21 A. That was a decision at the point of hire.
22 When somebody's hired, they see how they teach here and
23 the development they're doing here.

24 Q. Just regarding whether she taught before?

25 A. Doesn't matter. They're not SUNY-IT students.

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2 That was someplace else.

3 Q. Okay. So when you evaluate teaching
4 performance, you disregard professors at prior
5 teaching --

6 A. I didn't say I disregarded anything. I said I
7 look at their current teaching that was done here.

8 Q. So you -- yeah. My question is, did you
9 disregard?

10 A. I did not disregard anything. I looked at the
11 teaching she had done here.

12 MR. GOGLIA: Mr. Zhou, you got your
13 answer. Anything more -- I mean, you can't
14 keep on asking your questions because you
15 don't like the answer you get. You got your
16 answer. Anything further is asked and
17 answered, and it's improper. So move on. You
18 got your answer. Now it's --

19 MR. ZHOU: I need an answer. I need an
20 answer.

21 MR. GOGLIA: He gave you the answer, and
22 he's given it to you, excuse my language,
23 three times now.

24 MR. ZHOU: I want "yes" or "no" answer.

25 Q. Did you consider prior teaching experience in

1 Examination of Stephen Havlovic, Ph.D. 182

2 your evaluation --

3 MR. GOGLIA: Mr. Zhou, he gave you an
4 answer, and you're not entitled --

5 Q. -- "yes" or "no"?

6 MR. GOGLIA: -- to a "yes" or "no"
7 answer. He gave it to you, and he gave you a
8 proper answer. That's it.

9 MR. ZHOU: If I don't understand, I can
10 ask him. The same thing --

11 MR. GOGLIA: Mr. Zhou, you know what,
12 there's a language barrier. I understand
13 we're having some difficulties because there's
14 some problems asking questions. That being
15 said, you know quite well that you've asked
16 the question three or four times now. You've
17 gotten identical answers three or four times
18 now, and you keep on asking the same question.
19 And frankly, you're not even asking it in
20 different terms. You're asking the same,
21 exact question. That's improper. Move on.

22 MR. ZHOU: That's because he didn't give
23 me an answer.

24 MR. GOGLIA: No. He didn't give you the
25 answer that you would like. That's different

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2 from not giving you an answer. He gave you an
3 answer. Now, if you'd like to answer it
4 again, go ahead.

5 A. I told you, I believe, three times. No, I did
6 not consider prior teaching.

7 Q. That's the answer?

8 A. I don't know.

9 Q. You said "yes" or "no"; that's the answer?

10 A. I'm giving the answer, Dr. Zhou.

11 Q. Now, tell me how did you get 3.8 average for
12 the undergraduate course?

13 MR. GOGLIA: What are you referring to,
14 Mr. Zhou?

15 Q. Just tell me how did you get this number?

16 MR. GOGLIA: What number?

17 Q. In this, Exhibit 6. You had number 2.3
18 average. Increase to average of 3.8. How did you get
19 that 3.8 number?

20 A. I don't recall. I don't have all that data in
21 front of me.

22 Q. The data in front of you, Exhibit 9, 8, 10?

23 A. What I see here is, in terms of intermediate
24 accounting, she improved from a 1.8 to a 3.7.

25 Q. Yeah.

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2 Q. Now, you said this is other schools rating?

3 A. In the second paragraph that you referenced to
4 me, it says, "I normally receive high evaluations in my
5 previous schools." I told you earlier in my deposition,
6 that when I'm evaluating instruction, that I don't
7 consider people's teaching elsewhere. I consider what
8 they did here at SUNY-IT since they were hired.

9 Q. Yeah. What I wrote here, 4.2, is the rating
10 the first semester at SUNY-IT.

11 A. I understand that.

12 MR. GOGLIA: Mr. Zhou, just to be clear,
13 this is a deposition. This is not your
14 opportunity to argue your case against
15 Dr. Havlovic. So I would suggest you ask your
16 questions. We've already been here most of
17 the day. It's four o'clock now. You have
18 about an hour left, an hour and a half left at
19 max. So why don't you make use of that time
20 to ask questions and get to the gravamen of
21 the case, as opposed to this nonsense of you
22 trying to prove your case and trying to
23 convince Dr. Havlovic that his decision was
24 wrong. That's just argumentative and
25 improper.

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2 Q. In third semester, when you get complaints,
3 what did you do?

4 MR. GOGLIA: With respect to what?

5 Q. To complaints you got.

6 A. Most of --

7 Q. What did you do after you got complaints in
8 the third semester?

9 A. To be honest with you, it's difficult for me,
10 at this point in time, to separate out where the second
11 began and the third began and the fourth. Other than,
12 I'm pretty sure, in the fourth, is when the written
13 petition came in. But I do know that most of the time
14 when I got these, I asked the students to talk to the
15 department chair, and after I asked them if they'd
16 already talked to you, the instructor. So I asked them
17 to discuss this with you, and if they said they had
18 tried, or they had and it didn't work, I asked them to
19 talk to the department chair. And I'll say what I said
20 earlier, there was a number of times when you and I
21 spoke, where I was encouraging you to go to a teaching
22 seminar for finance, and that the School of Business
23 would pay for this, and that would not be part of your
24 faculty development allowance, that we would pay this
25 separately. So in some cases, the students were directed

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2 to go to you. If they had already gone to you, they were
3 directed to the chair. And when these things came in
4 volume, I would have a conversation with you about trying
5 to improve, and I kept offering to send you to a seminar.

6 Q. So when you received complaints, you asked the
7 students to go me; is that correct?

8 MR. GOGLIA: Asked and answered. He just
9 answered that at times, he suggested they
10 speak to you. You keep on asking the same
11 stuff over and over again. You've got to move
12 forward, Mr. Zhou. We're running out of time.
13 here.

14 Q. So every student that complained to you, you
15 asked them to come to speak to me; is that correct?

16 MR. GOGLIA: Objection. That's
17 mischaracterizing his testimony. That's not
18 what the witness said.

19 A. If a student came in and said that they
20 already had spoken with you, I wouldn't ask that
21 question, because they already told me. If a student
22 came in and said that they were struggling in the course
23 or whatever, I would ask if they had spoken with the
24 instructor about this. That's a consistent thing that I
25 do when students come in. I think it's important that

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2 they talk to the instructor and try to resolve these
3 things, and if they can't resolve it with the instructor,
4 I have them go to the chair or coordinator, and that
5 would have been Dr. Langdon. He was over finance.

6 Q. Did you know, in the third semester, if any
7 student talked to me regarding their complaints, they
8 come back to you or did you know any happened?

9 MR. GOGLIA: Objection. Vague and
10 ambiguous, compound, and I have no idea what
11 you said.

12 Q. Did they come back to you after they talked to
13 me?

14 A. I had a number of students that came back
15 multiple times. Whether it was in the third semester,
16 second semester, fourth semester, I don't know, but I had
17 people that were frustrated after they talked to you,
18 talked to the chair. I had people requesting to get
19 their money back. I had people requesting to take the
20 course from another instructor. I had lots of repeat
21 complaints from the same individuals.

22 Q. But you don't know whether this was in third
23 semester or the second semester?

24 MR. GOGLIA: Objection.

25 Q. Is that correct?

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2 Friday and another group the next week, but there needs
3 to be due process, and Dr. Langdon -- he didn't talk to
4 you a lot. He needed to find out what was going on, and
5 a lot of times, I'll delegate this to coordinators to
6 have -- to make sure the students talk to the professor
7 to find out what the situation is. In this case, the
8 student indicated that they had already gone to the
9 learning center director, and I wanted to find out who
10 Dr. Langdon -- what was happening with the learning
11 center, as well. So I don't know when we spoke about it,
12 but we would have spoken about it.

13 Q. Let me understand you correctly. You
14 notified, but there may be other days when you may have
15 talked to Langdon about this e-mail; is that correct?
16 Other days, in addition to other things, you may have
17 talked to Langdon about this e-mail?

18 MR. GOGLIA: Asked and answered. He just
19 gave that full testimony. You can understand
20 that testimony by reading --

21 Q. "Yes" or "no"?

22 A. There was so many complaints, Dr. Zhou, it's
23 difficult to sort through when I talked to Dr. Langdon.
24 As the accounting and finance coordinator, we spoke
25 regularly regarding students complaining about your